



PUBLIC NOTICE

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Wireless Telecommunications Bureau Approves Requests for Authorization To Participate in the AirCell System

On December 24, 1998, the Wireless Telecommunications Bureau (Bureau) released an Order granting AirCell, Inc. (AirCell) and certain participating cellular carriers a waiver of section 22.925 of the Commission's rules, 47 C.F.R. § 22.925, subject to certain conditions.¹ The *AirCell Orders* allow other cellular licensees that wish to participate with AirCell and operate under the terms and conditions of the *AirCell Orders*, as modified, to file their own waiver requests.² On November 6, 2003, AirCell, with each of Plateau Communications Inc., and Cable & Communications Corporation dba Mid-Rivers Cellular (Petitioners), filed petitions for waiver of section 22.925 and for authorization to participate in the AirCell system.

Petitioners assert that their requests are identical to those previously granted to AirCell and other licensees by the Bureau and subsequently affirmed by the Commission.³ Petitioners agree to the terms of

¹ See In the Matter of AirCell, Inc., Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or, in the Alternative, for a Declaratory Ruling, *Order*, 14 FCC Rcd. 806 (WTB 1998) (*AirCell Bureau Order*), recon. granted in part, denied in part, *Order on Reconsideration*, 14 FCC Rcd. 18430 (WTB 1999) (*AirCell Reconsideration Order*), application for review denied, *Memorandum Opinion and Order*, 15 FCC Rcd. 9622 (2000) (*AirCell MO&O*). On appeal, the United States Court of Appeals for the D.C. Circuit remanded the *AirCell MO&O* to the Commission for clarification of one technical aspect. See *AT&T Wireless Services, Inc., et al., v. FCC*, 270 F.3d 959, 968 (D.C.Cir. 2001); In the Matter of AirCell, Inc., Petition, Pursuant to Section 7 of the Act, for a Waiver of the Airborne Cellular Rule, or, in the Alternative, for a Declaratory Ruling, *Order on Remand*, 18 FCC Rcd. 1926 (2003) (collectively, the *AirCell Orders*).

² *AirCell Bureau Order*, 14 FCC Rcd. at 818, ¶ 25.

³ See In the Matter of AirCell, Inc., Pine Belt Cellular, Inc., Tennessee RSA No. 3 Limited Partnership, WESTEX Telecommunications, Inc., XIT Cellular, ETEX Cellular Co., Inc., Cellular Network Partnership, and North Alabama Cellular, LLC, Petitions for Waiver of the Airborne Cellular Rule, *Order*, 14 FCC Rcd. 13151 (WTB 1999); In the Matter of AirCell, Inc., ALLTEL Communications, Inc., American Rural Cellular, Inc., Centennial Cellular Corporation, CenturyTel Wireless, Inc., Kentucky RSA 4 Cellular General Partnership, and Smith Bagley, Inc. d/b/a/ Cellular One of Northeast Arizona, Petitions for Waiver of the Airborne Cellular Rule, *Order*, 14 FCC Rcd. 19678 (WTB 1999); In the Matter of AirCell, Inc. and Western Wireless Corporation, Petition for Waiver of the Airborne Cellular

the *AirCell Orders*, including operation of the AirCell mobile units on a secondary basis, and assert that the legal basis, unique circumstances, and public interest benefits are identical to those that supported and justified the *AirCell Orders* and the *AirCell Waiver Orders*.

Accordingly, the Wireless Telecommunications Bureau, pursuant to sections 1.3 and 1.925 of the Commission's rules, 47 C.F.R. §§ 1.3, 1.925, grants the requests of AirCell, Inc., Plateau Communications, Inc., and Cable & Communications Corporation dba as Mid-Rivers Cellular for waiver of section 22.925 of the Commission's rules, 47 C.F.R. § 22.925, subject to the terms and conditions set forth in the *AirCell Orders* and the *AirCell Waiver Orders* and as those terms and conditions may be subsequently modified or amended. This action is taken pursuant to the authority delegated in section 0.331 of the Commission's rules, 47 C.F.R. § 0.331.

Pursuant to section 1.102 of the Commission's rules, 47 C.F.R. § 1.102, the grant herein is effective upon release of this Public Notice. Pursuant to sections 1.106(f) and 1.115(d) of the Commission's rules, 47 C.F.R. §§ 1.106(f), 1.115(d), petitions for reconsideration and applications for review may be filed within thirty days of the release of this public notice.

For further information, contact Kathy Harris, Deputy Chief, Mobility Division, Wireless Telecommunications Bureau, at (202) 418-0609.

Rule, *Order*, 15 FCC Rcd. 1639 (1999); In the Matter of AirCell, Inc., California RSA No. 3, Limited Partnership, a California Limited Partnership d/b/a Golden State Cellular, and Douglas Communications, Inc., Petitions for Waiver of the Airborne Cellular Rule, *Order*, 15 FCC Rcd. 12834 (2000); Wireless Telecommunications Bureau Approves Request for Authorization to Participate in the AirCell System, *Public Notice*, DA 01-1982 (rel. Aug. 23, 2001); Wireless Telecommunications Bureau Approves Request for Authorization to Participate in the AirCell System, *Public Notice*, DA 03-420 (rel. Feb. 12, 2003) (collectively, the *AirCell Waiver Orders*).